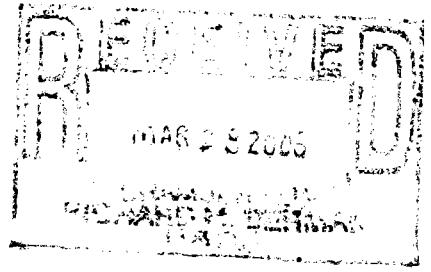




**Sheila E. Carson, Esq.**  
Vice President and  
Assistant General Counsel



March 27, 2008

Via Federal Express

**MEMO ENDORSED**

P2

Honorable Richard M. Berman  
United States District Court,  
Southern District of New York  
United States Courthouse,  
40 Centre Street, Courtroom 706  
New York, New York 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 28 Mar. 08

Re: Lizbeth O'Keefe a/k/a Lisbeth O'Keefe v. JPMorgan Chase Bank, N.A.  
Index No. 07 Civ. 9811 (RMB)

Dear Judge Berman:

I am a member of the JPMorgan Chase Legal Department, which represents JPMorgan Chase Bank, N.A. ("Chase") in the above-referenced action. I write as a follow up to my letter of January 9, 2008 as well as to the pre-motion conference held in this matter on February 13, 2008. At the pre-motion conference, the Court allowed Plaintiff in the above-referenced matter, Lizbeth O'Keefe (the "Plaintiff") to amend her Complaint on or before March 17, 2008. Your Honor further instructed Chase to consider Plaintiff's Amended Complaint and then to advise the Court as to whether Chase still seeks to file a Motion to Dismiss Plaintiff's Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) on or before March 31, 2008. Upon being served with Plaintiff's Amended Complaint on March 19, 2008, Chase has reviewed the Amended Complaint and believes that a Motion to Dismiss the Amended Complaint is warranted. As such, Chase renews its request for permission to make its Motion to Dismiss. During the pre-motion conference, the Court stated that a further pre-motion conference would not be necessary as the Court would proceed with setting a briefing schedule upon receiving this letter from Chase.

Plaintiff, a retail banking customer of Chase, has filed suit, *pro se*, against Chase for Chase's alleged failure to provide original cancelled checks along with Plaintiff's checking account statements between September 28, 2006 and January 25, 2007. In addition, Plaintiff seeks damages in the amount of \$37,502.17 – the face amount of certain checks which Plaintiff claims not to have received from Chase as "original" canceled checks. In her Amended Complaint, Plaintiff continues to assert a federal question basis for subject matter jurisdiction before this Court. To support her federal question basis, Plaintiff now asserts "28 U.S.C. 1331; Expedient Funds Availability Act (12 USC 4001 et seq.) as defendant violated plaintiff's rights under 12 USC 4008(c)(1)(A)(B)(2)." Plaintiff's Amended Complaint, ¶ II. B. Plaintiff's claims, including her asserted basis for subject matter jurisdiction before this Court, are without merit and are subject to dismissal.

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If this Court grants Chase permission to file its Motion to Dismiss Plaintiff's Amended Complaint, Chase will assert that this Court lacks subject matter jurisdiction because 1) 28 U.S.C. §1331 does not provide this Court with jurisdiction over the Plaintiff's claims because the action does not arise "under the Constitution, laws, or treaties of the United States" and 2) Plaintiff's allegations that this Court has subject matter jurisdiction under the Expedited Funds Availability Act cannot be maintained because the Expedited Funds Availability Act (12 U.S.C. 4008, et seq.) does not apply in this instance as Plaintiff has not alleged that Chase failed to make funds available for her use. In addition, Chase expects to argue that Plaintiff's Amended Complaint should be dismissed on the merits pursuant to Fed.R.Civ.P. 12(b)(6) because the facts alleged in Plaintiff's Amended Complaint do not provide any basis upon which Chase can be found liable to Plaintiff.

For the reasons set forth above, Plaintiff's Complaint should be dismissed in its entirety. Accordingly, Chase requests permission from the Court to file its Motion to Dismiss Plaintiff's Amended Complaint pursuant to Fed.R.Civ.P. 12(b)(6) and requests that the Court proceed setting a briefing schedule.

Respectfully submitted,



JPMorgan Chase Legal Department  
By: Sheila E. Carson, Esq.

cc: Lizbeth O'Keefe (via United States Mail)  
P. O. Box 286908  
New York, NY 10128

Def's may move to dismiss  
by 4/11/08; pl may respond  
by 5/12/08; def may reply by  
5/19/08. "On Submission." See  
Court's Rule re: page limits. pl  
may wish to consult w/ the  
Pro Se Clerk's office.

SO ORDERED:

Date: 3/28/08 Richard M. Berman  
Richard M. Berman, U